

## **Respiratory Care as it Relates to Polysomnography**

The Respiratory Care Board of California (RCB) is mandated to protect the public from the unauthorized and unqualified practice of respiratory care and from unprofessional conduct by persons licensed to practice respiratory care. The practice of respiratory care is coiled throughout the relatively new and emerging practice of polysomnography - - the collective process of attended monitoring and recording physiologic data during sleep, including sleep-related respiratory disturbances, for the purposes of identifying and assisting in the treatment of sleep/wake disorders (e.g. sleep apnea, narcolepsy, restless legs syndrome, etc...). Over the last several years, the RCB has reviewed this matter<sup>1</sup> in detail weighing such factors as: 1) the level of harm of unlicensed practice by various credentialed and non-credentialed technicians, 2) existing industry standards, 3) the demand for sleep studies, 4) the demand for respiratory therapists, and 5) the position statements and comments from interested parties. As a result, the RCB found the most effective alternative to protect the public from the unlicensed and/or unqualified practices of respiratory care and polysomnography is to establish a new licensure category for Polysomnographic Technologists.

While interest in sleep theories has been around for centuries, sleep studies and disorders as they relate to medicine is a relatively new field emerging by leaps and bounds in the last decade. Literature indicates sleep studies were introduced into the medical community in the mid-1970s. One of the first well-recognized sleep associations was founded in the 1970s and several associations followed thereafter. National certification for sleep technicians was available as early as 1979 (though accreditation of this certification program, by the National Organization for Competency Assurance, was not obtained until 2002). Sleep medicine began to expand rapidly in the late 1980s and again in 1996 when the American Medical Association recognized sleep medicine as a specialty.

In recent years, there has been an explosion of new sleep testing programs. It is believed that sleep labs are opening regularly because there are no requirements for the set-up or operation of facilities, there is a demand for sleep testing, and there is significant income to be gained from this. Results of a survey issued by the Board in 2004 indicate that over half of respondents agreed that the demand for polysomnography services is greater than California facilities can currently provide. In an article titled "Conundrums in Sleep Medicine," published in a 1999 issue of *CHEST Magazine*, Nancy A. Collop, MD, FCCP writes:

"Sleep laboratories are opening regularly in this country. What is required to set up a sleep laboratory? Money and a building! Anyone can open a sleep laboratory, and it seems that just about everyone is. In the small city of Charleston where I reside, there are at least seven sleep laboratories run by a variety of specialists, including ear, nose, and throat; pulmonologists; and neurologists. Many of these physicians do not have any specific training in sleep medicine. There is also a lack of quality control in sleep laboratories. In some labs, technicians "score" the sleep study, and the physician never actually reviews the study, but only develops an interpretation based on the scores. Portable sleep studies are also being performed with even less quality control. What is the reason for the popularity of sleep laboratories? ***Patients and income. ...***"

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<sup>1</sup> In 2001, the Board noted its concern with the unlicensed practice of respiratory care as it relates to polysomnography, in its report to the then, Joint Legislative Sunset Review Committee (JLSRC). In response, the JLSRC included in its 2002 recommendations to support the Board's effort to review the function and skill of currently unlicensed technicians and further study to determine the need for regulation.

The rising number of new sleep programs and demand for sleep services has contributed to the growing number of unlicensed personnel practicing respiratory care as it relates to polysomnography. In California, it is estimated that at least 65% of the "sleep technicians" are **unlicensed personnel**, while 30% of the workforce are *licensed* respiratory care practitioners (and 5% are other licensed healthcare workers).

Pamela K. Minkley, CPFT, RRT, RPSGT, described the technology used in polysomnography in an article titled "Respiratory Care Practitioners and Sleep Medicine: Opportunities and Challenges," published in the May 1998 issue of *Respiratory Care*. She wrote:

"Polysomnography borrows and adapts technology from electroneurodiagnostics, *pulmonary diagnostics, respiratory care*, biomedical science, and other fields. It requires adaptation of clinical aspects of neurology, pulmonary, and sleep medicine with aspects of gastrointestinal medicine, ear, nose, and throat medicine, urology, psychiatry, psychology, and social work. It is an amalgamation of skills that is a specialty unto itself - sleep medicine and technology.... **Respiratory care and electroneurodiagnostics contribute many of the educational competencies that provide a base upon which to build.**"

The health, safety, and welfare of California consumers are being jeopardized as a result of the rapid growth of sleep medicine outstripping qualified practitioners. Without regulatory oversight, a growing number of unlicensed and unqualified personnel are providing an array of sleep-related diagnostic and therapeutic services to the consumers often under the supervision of equally unlicensed and unqualified persons in non-medical facilities such as hotels.

In 2006, the Board completed a "[sunrise questionnaire](#)" wherein the Board responds to 57 questions as to why regulation is needed and the best alternative for regulation. Among many other factors, the board noted its concerns for sexual misconduct among unlicensed practitioners. While licensure alone may not always prevent an initial occurrence, it does prevent a person with a criminal background of this nature from practicing. It is also an effective tool to require mandatory reporting of licensees who are in violation of laws and regulations that govern the practice. Without licensure, a person guilty of a sex crime can hop from employer to employer – especially employers who do not perform employment or criminal background checks.

In May 2007, headlines were made when Lacanalale Amorsolo, Jr. (aka Manuel Ray Lacanalale, Jr.) was arrested for allegedly sexually molesting adult patients while working as an unlicensed sleep technician in a sleep lab at a hospital. (As of November 2007, charges are still pending.) A similar unrelated event also happened in Florida around this same time.

Licensure provides many safeguards for consumers but also technologists in the field. Licensure provides standards for ALL personnel including 1) competency, 2) education, 3) training, and 4) supervision. Currently, RCPs and registered nurses are licensed and regulated to ensure accountability, competency and enhance public safety protections. They are required to be knowledgeable of and follow consumer safety laws and regulations, such as infection control guidelines, and are subject to criminal background checks and discipline. Further, they must meet the education standards established for their professions and successfully pass licensure examinations to ensure they are competent. These individuals may have also successfully completed the examination given by the Board of Registered Polysomnographic Technologists (**BRPT**) and obtained a credential in polysomnography.

The unlicensed practitioners, such as the electroneurodiagnostic technicians **may** be educated and trained, even credentialed by the BRPT, but they are not regulated. They are not held accountable for their actions nor are they required to be competent, knowledgeable of California law, and protect the public's safety. Failure to perform competently and protect the consumer holds little or no consequence for them. The unlicensed, uneducated, and untrained individuals who are performing polysomnography are accountable only to their employer.

With that said, it is highly likely that the majority and then some, of credentialed personnel (unlicensed individuals holding RPSGT credential) are ethical, conscientious and competent, and many are the most qualified people to conduct sleep studies. However, without regulation, it is not possible to determine who may have a criminal background. Further, while the BRPT may revoke a credential, it holds no legal weight as to whether the person can continue to practice.

In October 2007, the Board began receiving numerous calls and e-mails from the sleep community, initially in response to the news (which spread by word of mouth) that a hospital had been cited by the Department of Health Services for failing to use licensed personnel in its sleep lab to perform respiratory care related tasks. Following this initial spark of interest, came the Board's newsletter, wherein the front cover noted that the Board would begin enforcing its authority to cite and fine unlicensed personnel for illegally practicing respiratory care as it relates to polysomnography. Rightfully so, many physicians, sleep owners and unlicensed personnel have grown very concerned.

For over five years the board has been reaching out to the sleep community to get their input about how to best address the issue that accelerated technology advances have placed upon patient safety and testing for sleep patients. The Board moved forward last year (2006) and attempted to find a legislator to carry language that would allow for all persons currently performing polysomnography to become licensed. The language was carefully crafted to ensure that patient care would not be interrupted, to be all inclusive, and at the same time provide legal standards for the field (across the board) and consumer protection safeguards (criminal background checks, competency testing, etc...) But, unfortunately we could not secure an author and our efforts were met with little to no interest by the sleep association, CTS and other influential groups who may have prevented the current state of affairs.

While we continue our search to secure an author for this proposed legislation, with the absence of licensure for Polysomnography Technologists or any promise of such on the horizon, the Board must uphold the existing law aimed at providing consumer protection (which requires licensure as a RCP to perform respiratory care). Please understand that the intent of the board is not to jeopardize patient care with our actions, but rather to ultimately improve unsafe patient conditions that have the potential to cause harm to an unknowing and unsuspecting patient population. It is our hope that in moving forward, the sleep community and all interested parties can work together to find to best solution to amend current laws that will recognize properly trained and competency tested individuals.

The [proposed legislation](#) to license sleep technologists is available on our website and we encourage you to review it and the [Sunrise Questionnaire](#) so you have a clear understanding of our position. Please note that the data in the Sunrise Questionnaire was gathered over a two year period, so some of the information may be outdated. However, the last few pages really spell out our regulatory plan that is proposed. You will see that we provide a grandfather clause, experience is recognized as well as the BRPT credentialing examination. The Board is in no way trying to monopolize the field of polysomnography. We fully recognize the value of credentialed RPSGTs as well as the fact that licensed RCPs need additional training. However, we are obliged to enforce our consumer mandate which requires licensure to practice respiratory care.

Your voice makes a difference and ultimately will bring about a solution. We support you in your efforts to improve patient care and safety.

If you would like to make a comment regarding this issue, please e-mail us at [rcbinfo@dca.ca.gov](mailto:rcbinfo@dca.ca.gov).

Thank you.